

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,	§
Plaintiff,	§
v.	§ CIVIL ACTION NO.
	§
RUGER AR-556 RIFLE;	§
GLOCK, MODEL 19, PISTOL;	§
SAVAGE, MODEL AXIS, RIFLE;	§
RUGAR, MODEL 10/22, RIFLE;	§
AERO PRECISION, TEXAS, RIFLE; and	§
40 ROUNDS ASSORTED	§
AMMUNITION,	§
Defendants.	§

COMPLAINT FOR FORFEITURE IN REM

The United States files this action for forfeiture *in rem* and alleges upon information and belief:

Nature of the Action

1. This action is brought by the United States of America seeking forfeiture of the following property pursuant to 18 U.S.C. § 924(d):

- (a) a Ruger AR-556 Rifle;
- (b) a Glock, Model 19, Pistol;
- (c) a Savage, Model Axis, Rifle;
- (d) a Ruger, Model 10/22, Rifle;
- (e) an Aero Precision, Model Texas, Rifle; and
- (f) 40 rounds of assorted ammunition.

(Collectively, the “Defendant Properties”)

2. On or about May 2, 2019, law enforcement officers seized the Defendant Properties from a house located at 2006 William Tell Street, Houston, Texas. The Defendant Properties are in the custody of the United States Bureau of Alcohol, Tobacco, Firearms and Explosives (hereinafter “ATF”).

3. Alex Franco (hereinafter “Franco”) filed an administrative claim to the Defendant Properties with ATF, which has halted the agency’s forfeiture proceeding of the Defendant Properties.

Jurisdiction and Venue

4. The Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1345 and 1355.

5. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1335(b)(1), 1391(b), and 1395.

Statutory Basis for Forfeiture

6. The Defendant Properties are subject to forfeiture under 18 U.S.C. § 924(d)(1), which provides for the forfeiture of any firearm or ammunition involved in or used in any knowing violation of 18 U.S.C. § 922(d), (g), and (o). Under Section 922(d)(5), it is unlawful for any person to sell or otherwise dispose of any firearms or ammunition to any person knowing or having reasonable cause to believe that such person is an alien illegally or unlawfully in the United States. Under Section 922(g)(5), it is unlawful for a person, who being an alien illegally or unlawfully in the United States, to possess in or affecting commerce, any firearm or ammunition or to receive any firearm or ammunition

which has been shipped or transported in interstate or foreign commerce. Under Section 922(o), it is unlawful for any person to possess a machinegun.

7. Defendant Properties have been shipped or transported in interstate commerce.

Facts

8. Based on previous investigations, ATF agents learned that China based website *CBTForce.com* sells Glock Machinegun Conversion Switches (hereinafter “GMCS”) in the United States that, when installed, convert a Glock pistol into a fully automatic machinegun.

9. On or about November 15, 2018, Sergio Montenegro (hereinafter “S. Montenegro”) ordered a GMCS for \$19.99 from *CBTForce.com*. The GMCS was shipped from China to 2006 William Tell Street, Houston, Texas, via China Post/U.S. Postal Service (Tracking #LW003975633).

10. On or about May 2, 2019, federal and local law enforcement officers went to 2006 William Tell Street, Houston, Texas. Investigators interviewed S. Montenegro and learned that his younger brother, Oman Montenegro (hereinafter “O. Montenegro”), ordered the GMCS. O. Montenegro said he used his older brother’s name because he was not twenty-one years old. The Montenegro brothers installed the device on a Glock pistol and test fired it at a family ranch. The GMCS enabled the Glock pistol fire fully automatic.

11. The Montenegro brothers and their mother gave investigators written consent to search the residence. During the search, investigators found and recovered the GMCS and Defendant Properties. The Defendant Properties were located in various places inside

a bedroom that the Montenegro brothers share. The Montenegro brothers told investigators that the Defendant Properties belong to their cousins Victor Franco, Alex Franco and Ricky Bellman. The Montenegro brothers also said that they go to the firearms range often and like to shoot guns.

12. Further investigation disclosed that the Montenegro brothers and their mother entered the United States illegally. They told investigators that they are seeking asylum.

13. Under these circumstances, the Defendant Properties are subject to forfeiture because they were involved in knowing violations of 18 U.S.C. § 922(d), (g) and (o).

Notice to Any Potential Claimants

YOU ARE HEREBY NOTIFIED that if you assert an interest in the Defendant Properties which are subject to forfeiture and want to contest the forfeiture, you must file a verified claim which fulfills the requirements set forth in Rule G of the Supplemental Rules for Admiralty of Maritime Claims and Asset Forfeiture Actions. A verified claim must be filed no later than thirty-five (35) days from the date this Complaint has been sent in accordance with Rule G(4)(b).

An answer or motion under Rule 12 of the Federal Rules of Civil Procedure must be filed no later than twenty-one (21) days after filing the claim. The claim and answer must be filed with the United States District Clerk for the Southern District of Texas at United States Courthouse, 515 Rusk Avenue, Houston, Texas 77002, and a copy must be

served upon the undersigned Assistant United States Attorney at United States Attorney's Office, 1000 Louisiana Suite 2300, Houston, Texas 77002.

Prayer

Wherefore, the United States of America prays that judgment of forfeiture be entered against the Defendant Properties in favor of the United States of America under 18 U.S.C. § 924(d)(1) in addition to such costs and other relief to which the United States of America may be entitled.

Respectfully submitted,

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Verification

I, Freddie J. Summers, a Special Agent employed by the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), hereby verify under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the facts set forth in the foregoing Complaint for Forfeiture in Rem are based upon either personal knowledge or from information, reports, or records obtained during investigation and from other law enforcement personnel, and are true and correct to the best of my knowledge and belief.

Executed on the 20th day of September 2019.



Freddie J. Summers
Special Agent
U.S. Bureau of Alcohol, Tobacco,
Firearms & Explosives